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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RASHAD WILLIAMS,

Plaintiff,

VS.

STATE OF NEVADA, DEPARTMENT OF
CORRECTIONS; CHARLES DANIELS,
DIRECTOR, STATE OF NEVADA,
DEPARTMENT OF CORRECTIONS,

Defendant.

CASE NO.

COMPLAINT FOR DAMAGES AND OTHER
RELIEF BASED UPON:

1. DISABILITY DISCRIMINATION AND FAILURE TO ACCOMMODATE IN VIOLATION OF THE AMERICANS WITH DISABILITIES ACT

2. RETALIATION
3. WRONGFUL DISCHARGE IN VIOLATION OF PUBLIC POLICY
4. VIOLATION OF 42 U.S.C. §1983 EQUAL PROTECTION

JURY DEMAND

Plaintiff RASHAD WILLIAMS ("Plaintiff" or "Williams") alleges as follows:

1. This action is brought pursuant to the Americans With Disabilities Act of 1990, 42 U.S.C. §12101, et seq. (hereinafter “ADA”) as it involves a claim by Plaintiff for disability discrimination including failure to accommodate, retaliation and constructive termination in violation of the ADA, an Equal Protection claim under 42 U.S.C. §1983 and a state law claim for

1 constructively terminating Plaintiff for filing a worker's compensation claim. Jurisdiction is
2 predicated under these code sections as well as 28 U.S.C. § 1331 as this action involves a federal
3 question.

4 2. At all relevant times, the STATE OF NEVADA, NEVADA DEPARTMENT OF
5 CORRECTIONS (“Defendant Nevada Department of Corrections” or “Nevada Department of
6 Corrections”) employed twenty (20) or more employees for each working day during each of 20 or
7 more calendar workweeks in the current or preceding calendar year, and are therefore subject to
8 the provisions of the ADA.

9 3. The events or omissions giving rise to Plaintiff's claim occurred in this judicial
10 district, thus venue is proper here pursuant to 28 USC §1391(b)(2), and the ends of justice so
11 require.

12 **PARTIES**

13 4. Plaintiff, Williams, is a citizen of the United States and a resident of the State of
14 Nevada, County of Clark and City of Las Vegas.

15 5. Defendant Nevada Department of Corrections is a public entity and a Department
16 of the State of Nevada, who Plaintiff was employed by at all relevant times giving rise to the
17 claims asserted herein.

18 6. Defendant Charles Daniels (“Defendant Daniels” or “Director Daniels”) is being
19 sued in his official capacity as director of the State of Nevada, Department of Corrections.

20 **EXHAUSTION OF REMEDIES**

21 7. Plaintiff timely filed a “Charge of Discrimination” with the Nevada Equal Rights
22 Commission and Equal Employment Opportunity Commission and was issued a Notice of Right
23 to Sue by the EEOC on March 25, 2022, a copy of which is attached to the Complaint as Exhibit
24 “A”.
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26 **STATEMENT OF FACTS**

27 8. On or about July 16, 2016, Plaintiff was hired by the Department of Corrections as
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1 a Correctional Officer. In December 2018 Williams briefly terminated his employment with
2 Defendant but was rehired on January 14, 2019.

3 9. On or about May 18, 2020, Plaintiff sustained an injury to right hip, groin and leg
4 when he slipped and fell down a stairwell in Unit 3 A/B control bubble. Williams had come from
5 the control bubble to retrieve his lunch and on the last three stairs from the bottom slipped and
6 tried to catch himself with his right leg causing the injuries.

7 10. Plaintiff filed a workers compensation claim due to the injuries and his care was
8 placed under the administration of a third party administrator for workers compensation.

9 11. Williams was given work restrictions including no lifting over 20 pounds, no
10 pushing or pulling over 25 pounds, no running, no climbing and no inmate confrontations.

11 12. To accommodate these restrictions, the Nevada Department of Corrections initially
12 placed Plaintiff in main control monitoring the movement of inmates coming and going and
13 verifying inmate counts.

14 13. This continued until July 2, 2020 when Williams was notified that he would no
15 longer be accommodated in main control or with any other position. From that time forward,
16 Defendant Nevada Department of Corrections would only allow Plaintiff to return to his full duty
17 position as a Correctional Officer.

18 14. Williams believed that in addition to the main control position, he could work in
19 the mail room sorting mail, work in the tower watch, work in the warden's office answering
20 questions, etc., work in the Casa Grande location off Russell manning the front desk and working
21 the graveyard shift doing prisoner counts and sorting mail.

22 15. This created an intolerable situation for Plaintiff because the Nevada Department of
23 Corrections refused to accommodate Plaintiff in any of these or other positions Williams was able
24 to perform with his restrictions.

25 16. Thus Plaintiff was forced to submit his resignation on November 2, 2020,
26 constructively terminating his employment with Defendant Nevada Department of Corrections.
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**(For Disability Discrimination and Failure to Accommodate in
Violation of the Americans with Disabilities Act of 1990)**

18. Plaintiff Williams incorporates the allegations set forth in paragraphs 1 through 17, inclusive, as if fully set forth herein.

20. As set forth hereinabove, Williams injured his right hip, groin and leg when he slipped and fell at work which restricted Plaintiff from lifting over 20 pounds, pushing or pulling over 25 pounds, running, climbing and participating in inmate confrontations.

22. Further Plaintiff was a qualified individual with a disability under the ADA because he could have been accommodated by the Nevada Department of Corrections by giving him alternative jobs including main control (which he had already done), working in the mail room sorting mail, working in the tower watch, working in the warden's office answering questions, etc., working in the Casa Grande location off Russell manning the front desk and working the graveyard shift doing prisoner counts and sorting mail.

1 23. Thus by not accommodating Williams with an alternative job that he could perform
2 with his restrictions and instead insisting that Plaintiff perform his regular job as a Corrections Officer
3 without accommodations, Defendants was in violation of the ADA.

4 24. Further Plaintiff was forced to resign his position as a Corrections Officer on
5 November 2, 2020 because he was not able to perform all of the job duties of the position with his
6 restrictions, thus constructively terminating his employment with Defendant Nevada Department
7 of Corrections.

8 25. This was reasonable because Williams had run through his savings and retirement
9 so he could not continue to not work and not get paid but rather needed to get another job that he
10 could perform with his restrictions so he could support himself.

11 26. As a direct, foreseeable, and legal result of Defendants failing to accommodate
12 Plaintiff under the ADA and instead constructively terminating his employment, Plaintiff has
13 suffered, overall economic losses in earnings, pension, bonuses, job benefits and expenses, in an
14 amount to be proven at trial which exceeds the minimum jurisdictional limits of this Court.

15 27. As a further direct, foreseeable, and legal result of Defendants failing to
16 accommodate Plaintiff under the ADA leading to Williams constructively terminating his
17 employment, Plaintiff has suffered indignity, mental anguish, humiliation, emotional distress,
18 nervousness, tension, anxiety, recurring nightmares, depression, inconvenience and loss of
19 enjoyment of life and other pecuniary losses, the extent of which is not fully known at this time,
20 for which he seek damages in an amount in excess of the minimum jurisdictional limits of the
21 Court, also to be proven at the time of trial.

22 28. In acting as they did, Defendants knowingly, willfully, and intentionally acted in
23 conscious disregard of Plaintiff's rights. Their conduct was despicable, has subjected Plaintiff to
24 oppression, and it warrants an award of punitive and exemplary damages in favor of Plaintiff, in a
25 sum according to proof at trial.

26 29. Plaintiff claim the damages alleged herein, together with prejudgment interest as
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1 provided by law, in a sum according to proof at trial.

2 30. Plaintiff has incurred, and continues to incur, attorney's fees in the prosecution of
3 her claims. Plaintiff therefore seeks an award of reasonable attorney's fees, in a sum according to
4 proof at trial.

5 **SECOND CAUSE OF ACTION**

6 **(For Retaliation)**

7 **(Against Defendants Nevada Department of Corrections and Director Daniels)**

8 31. Plaintiff Williams incorporates the allegation set forth in paragraphs 1 through 30,
9 inclusive, as if fully set forth herein.

10 32. This cause of action is brought pursuant to the ADA, as it involves a claim by
11 Plaintiff for Retaliation in violation of ADA.

12 33. As set forth herein above, Plaintiff was retaliated against for engaging in protected
13 activity including exercising or trying to exercise his ADA.

14 34. As a direct, foreseeable, and legal result of Defendants' Retaliation, Plaintiff has
15 suffered, overall economic losses in earnings, pension, bonuses, job benefits and expenses, in an
16 amount to be proven at trial which exceeds the minimum jurisdictional limits of this Court.

17 35. As a further direct, foreseeable, and legal result of Defendants' Retaliation, Plaintiff
18 has suffered indignity, mental anguish, humiliation, emotional distress, nervousness, tension,
19 anxiety, recurring nightmares, depression, inconvenience and loss of enjoyment of life and other
20 pecuniary losses, the extent of which is not fully known at this time, for which she seeks damages
21 in an amount in excess of the minimum jurisdictional limits of the Court, also to be proven at the
22 time of trial.

23 36. In acting as they did, Defendants' knowingly, willfully, and intentionally acted in
24 conscious disregard of Plaintiff's rights. Their conduct was despicable, has subjected Plaintiff to
25 oppression, and it warrants an award of punitive and exemplary damages in favor of Plaintiff, in a
26 sum according to proof at trial.
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1 filing a worker's compensation claim and requesting treatment and other benefits pursuant to the
2 worker's compensation laws.

3 45. As a direct, foreseeable, and legal result of Defendants constructively terminating
4 Plaintiff on November 2, 2020 because of and in retaliation for filing a worker's compensation
5 claim, Williams has suffered and continues to suffer, substantial losses in earnings, bonuses, job
6 benefits and expenses, in an amount to be proven at trial which exceeds the minimum
7 jurisdictional limits of this Court.

8 46. As a further direct, foreseeable, and legal result of the Defendants constructively
9 terminating Plaintiff on November 2, 2020 because of and in retaliation for filing a worker's
10 compensation claim, Plaintiff has suffered indignity, mental anguish, humiliation, emotional
11 distress, nervousness, tension, anxiety, recurring nightmares, depression, inconvenience and loss
12 of enjoyment of life and other pecuniary losses, in an amount to be proven at trial which exceeds
13 the minimum jurisdictional limits of this Court.

14 47. In acting as they did, Defendants knowingly, willfully, and intentionally acted in
15 conscious disregard of Plaintiff's rights. Their conduct was despicable, has subjected Plaintiff to
16 oppression, and it warrants an award of punitive and exemplary damages in favor of Plaintiff, in a
17 sum according to proof at trial.

18 48. Plaintiff claims the damages alleged herein, together with prejudgment interest as
19 provided by law, in a sum according to proof at trial.

20 49. Plaintiff has incurred, and continues to incur, attorney's fees in the prosecution of
21 his claims. Plaintiff therefore seeks an award of reasonable attorney's fees, in a sum according to
22 proof at trial.

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24 **FOURTH CAUSE OF ACTION**

25 **(Violation of 42 U.S.C. §1983 Equal Protection)**

26 **(Against Defendants Nevada Department of Corrections and Director Daniels)**

27 50. Plaintiff Williams incorporates the allegation set forth in paragraphs 1 through 49,
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1 inclusive, as if fully set forth herein.

2 51. This cause of action is brought pursuant to 42 U.S.C. §1983 to obtain relief for
3 Plaintiff for violation of his right to equal protection of the laws of the United States.

4 52. Defendants violated Plaintiff's right to equal protection of the laws pursuant to 42
5 U.S.C. §1983 when they, *inter alia*, subjected Williams to unlawful disability discrimination and
6 retaliation.

7 53. As a direct, foreseeable, and legal result of this discrimination interference in
8 violation of his equal protection rights under 42 U.S.C. §1983, Plaintiff has suffered, overall
9 economic losses in earnings, pension, bonuses, job benefits and expenses, in an amount to be
10 proven at trial which exceeds the minimum jurisdictional limits of this Court.

11 54. As a further direct, foreseeable, and legal result of this discrimination or
12 interference in violation of his equal protection rights under 42 U.S.C. §1983, Plaintiff has
13 suffered indignity, mental anguish, humiliation, emotional distress, nervousness, tension, anxiety,
14 recurring nightmares, depression, inconvenience and loss of enjoyment of life and other pecuniary
15 losses, the extent of which is not fully known at this time, for which he seeks damages in an
16 amount in excess of the minimum jurisdictional limits of the Court, also to be proven at the time
17 of trial.

18 55. In acting as they did, Defendants knowingly, willfully, and intentionally acted in
19 conscious disregard of Plaintiff's rights. Their conduct was despicable, has subjected Plaintiff to
20 oppression, and it warrants an award of punitive and exemplary damages in favor of Plaintiff, in a
21 sum according to proof at trial.

22 56. Plaintiff claims the damages alleged herein, together with prejudgment interest as
23 provided by law, in a sum according to proof at trial.

24 57. Plaintiff has incurred, and continues to incur, attorney's fees in the prosecution of
25 her claims. Plaintiff therefore seeks an award of reasonable attorney's fees, in a sum according to
26 proof at trial.
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PRAYER FOR RELIEF

WHEREFORE, Plaintiff Williams demands judgment against Defendant as follows:

1. Declaring that the acts and practices complained of here are a violation of ADA, 42 U.S.C. §1983 and Nevada public policy;
2. Enjoining and permanently restraining the violations by Defendant of the ADA, 42 U.S.C. §1983 and Nevada public policy;
3. For overall economic losses in earnings, bonuses, job benefits and expenses, according to proof at time of trial;
4. For compensatory damages for mental and emotional distress, worry, indignity, mental anxiety, mortification, depression, shame, grief, inconvenience and loss of enjoyment of life and other pecuniary losses, all to Plaintiff's damage in a sum to be shown at the time of trial;
5. For punitive damages;
6. For liquidated damages in an amount equal to double the amount of Plaintiff's actual damages;
7. For attorney's fees and costs in an amount determined by the court to be reasonable;
8. For pre-judgment interest on all damages; and
9. For any other and further relief that the Court considers proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury in this action.

DATED: 6/23/2022

LAW OFFICES OF MICHAEL P. BALABAN

BY: /s/ Michael P. Balaban

Michael P. Balaban

LAW OFFICES OF MICHAEL P. BALABAN

10726 Del Rudini Street

Las Vegas, NV 89141

EXHIBIT

“A”

NOTICE OF RIGHT
TO SUE



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Las Vegas Local Office
333 Las Vegas Blvd South ,Suite 5560
Las Vegas ,Nevada ,89101
(702) 553-4470
Website: www.eeoc.gov

DETERMINATION AND NOTICE OF RIGHTS

(This Notice replaces EEOC FORMS 161 & 161-A)

Issued On: 03/25/2022

To: Mr. Rashad Williams
2117 Tosca St. Apt 106
LAS VEGAS, NV 89128

Charge No: 487-2020-01861

EEOC Representative and email: Donna Cutley
Sr. Investigator
donna.cutley@eeoc.gov

DETERMINATION OF CHARGE

The EEOC issues the following determination: The EEOC will not proceed further with its investigation and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

NOTICE OF YOUR RIGHT TO SUE

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file a lawsuit based on this charge, please sign-in to the EEOC Public Portal and upload the court complaint to charge 487-2020-01861.



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Las Vegas Local Office
333 Las Vegas Blvd South ,Suite 5560
Las Vegas ,Nevada ,89101
(702) 553-4470
Website: www.eeoc.gov

On Behalf of the Commission:

Digitally Signed By:Christine Park-Gonzalez
03/25/2022

Christine Park-Gonzalez
Acting District Director

Cc:

Sharla Bennett
EEO Officer
NEVADA DEPARTMENT OF CORRECTIONS
skbennett@doc.nv.gov
C Cohan
Sr. EEO Specialist
ccohan@doc.nv.gov

Please retain this notice for your records.